

09/622621

FORM PTO-1390  
(REV 11-98)

U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

ATTORNEYS DOCKET NUMBER

XY-Sonc-USNP

TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A FILING UNDER 35 U.S.C. 371

533 Rec'd PCT/PTO 18 AUG 2000  
US APPLICATION NO. (If known, see 37 CFR 1.5)  
60/075,612

INTERNATIONAL APPLICATION NO.  
PCT/US99/03638

INTERNATIONAL FILING DATE  
19 February 1999

PRIORITY DATE CLAIMED  
20 February 1998

## TITLE OF INVENTION

A Vibratory System for a Sorting Flow Cytometer

## APPLICANT(S) FOR DO/EO/US

Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George C. Malachowski,  
Matthias J.G. Ottenberg, Douglas H. Ferguson

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

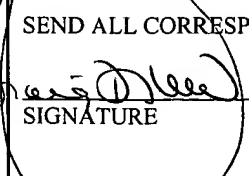
1. ☒ This is the FIRST submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is the SECOND or SUBSEQUENT submission of items concerning a filing under 35 U.S.C. 371.
3. ☒ This express request to begin national examination procedures (35 U.S.C. 371(f)) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371(b)) and PCT articles 22 and 39(1).
4. ☒ A proper Demand for International Preliminary Examination was made by the 19th month from the earliest claimed priority date.
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
  - a. ☒ is transmitted herewith (required only if not transmitted by the International Bureau).
  - b. ☐ has been transmitted by the International Bureau.
  - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ A translation of the International Application into English (35 U.S.C. 371(c)(2)).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)).
  - a. ☐ are transmitted herewith (required only if not transmitted by the International Bureau).
  - b. ☐ have been transmitted by the International Bureau.
  - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
  - d. ☐ have not been made and will not be made.
8. ☐ A translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ A translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11. to 16. below concern document(s) or information included:

11. ☒ An Information Disclosure Statement under 37 CFR 1.97 and 1.98 along with some copies of cited references.
12. ☒ An assignment document for recording for George E. Seidel. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included along with a recordation fee.
13. ☒ A FIRST preliminary amendment.  
☐ A SECOND or SUBSEQUENT preliminary amendment.
14. ☐ A substitute specification.
15. ☐ A change of power of attorney and or address letter.
16. ☒ Other items or information:
  - a. Verified Statement Establishing Small Entity Status (Small Business) for Cytomation, Inc. and XY, Inc.
  - b. Verified Statement Establishing Small Entity Status (University Employee)
  - c. Verified Statement Establishing Small Entity Status (University)
  - d. Power of Attorney by Cytomation, Inc., XY, Inc. and Colorado State University through its agent Colorado State University Research Foundation
  - e. a copy of the International PCT application
  - g. a First Preliminary Amendment to be entered with this filing prior to calculation of the filing fee
  - h. an Assignment of Patent Rights for George C. Malachowski and Matthias J.G. Ottenberg along with a recordation cover sheet & recordation fee
  - i. an Assignment of Patent Rights for Kristopher S. Buchanan, Lisa Herickhoff along with a recordation cover sheet & recordation fee
  - j. an Assignment of Patent Rights for George Seidel along with a recordation cover sheet & recordation fee
  - k. a true and correct copy of the Assignment of Patent Rights filed in the PCT application PCT/US99/03638 and recorded on February 2, 2000 from Douglas H. Ferguson to the Cytomation, Inc., recorded at reel/frame: 010570/0282 and the corresponding Notice of Recordation and Recordation Cover Sheet
  - l. a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) concerning a filing under 35 U.S.C. 371 (Form PTO-1390, rev 11-98) with attachments
  - m. a Letter of Transmittal
  - n. a cashier's check in the amount of \$ 2812.00
  - o. Certificates of Express Mailing for each document

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U.S. APPLICATION NO. (If known, see 37 CFR 1.5) 60/075,612		INTERNATIONAL APPLICATION NO PCT/US99/03638		ATTORNEY'S DOCKET NUMBER XY-Sonic-USNP	
17. <input type="checkbox"/> The following fees are submitted: <b>BASIC NATIONAL FEE (37 CFR 1.492(a) (1) - (5):</b> Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO. . . . . \$970.00  International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO. . . . . \$840.00  International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO. . . \$760.00  International preliminary examination fee paid to USPTO (37 CFR 1.482) but all claims did not satisfy provisions of PCT Article 33(1)-(4). . . . . \$670.00  International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfy provisions of PCT Article 33(1)-(4) . . . . . \$ 96.00  <b>ENTER APPROPRIATE BASIC FEE AMOUNT =</b>				CALCULATIONS (PTO USE ONLY)	
Surcharge of \$130.00 for furnishing the oath or declaration later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(e)).				\$ 0	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	72-20 =	52	X \$18.00	\$ 4,482.00	
Independent claims	1- 3 =	0	X \$78.00	\$ 546.00	
MULTIPLE DEPENDENT CLAIM(S) (if applicable) +\$260.00				\$ 260.00	
<b>TOTAL OF ABOVE CALCULATIONS =</b>				\$ 5,384.00	
Reduction of 1/2 for filing by small entity, if applicable. A Small Entity Statement must also be filed (Note 37 CFR 1.9, 1.27, 1.28).				\$ 2,692.00	
<b>SUBTOTAL =</b>				\$ 2,692.00	
Processing fee of \$130.00 for furnishing the English translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(f)).				\$ 0	
<b>TOTAL NATIONAL FEE =</b>				\$ 2,692.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property				\$ 120.00	
<b>TOTAL FEES ENCLOSED =</b>				\$ 2,812.00	
Amount to be:				Refunded	\$
				Charged	\$
a. <input checked="" type="checkbox"/> A check in the amount of \$ <u>2,812.00</u> to cover the above fees is enclosed. b. <input type="checkbox"/> Please charge my Deposit Account No. _____ in the amount of \$ _____ to cover the above fees. c. <input type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any over payment to Deposit Account No. _____. A Duplicate copy of this sheet is enclosed.					
<b>Note: Where the appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b))          must be filed and granted to restore the application to pending process.</b>					
SEND ALL CORRESPONDENCE TO:					
 SIGNATURE		<u>8-18-00</u> NAME		<u>Craig R. Miles</u> REGISTRATION NUMBER	
				<u>45,954</u>	

08/622621  
533 Rec'd PCT/PTO 18 AUG 2000

Express Mail No: EL627894581US

Attorney Docket: XY-Sonic-USNP

IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

In Re the Application of: Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George C. Malachowski, Matthias J.G. Ottenberg, Douglas H. Ferguson

Serial Number: (original US) 60/075,612 (new) \_\_\_\_\_  
(PCT) PCT/US99/03638

Filed: (original US) 20 February 1998 (new) \_\_\_\_\_  
(PCT) 19 February 1999

For: A Vibratory System For A Sorting Flow Cytometer

Group Art Unit:

Examiner:

Assignee:

**CERTIFICATE OF EXPRESS MAILING**

I, Shannon Nation-Kammerer, hereby certify to the truth of the following items:

1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.

2. I have this day deposited the attached Declaration for Patent Application of George Seidel with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

Dated this 18 day of August, 2000.

Shannon N. Nation-Kammerer

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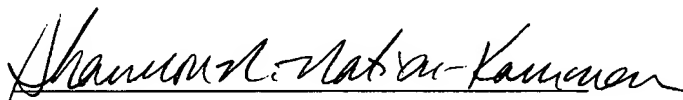
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2. I have this day deposited the attached Declaration for Patent Application of Kristopher S. Buchanan and Lisa Herickhoff with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

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**LETTER OF TRANSMITTAL**

Assistant Commissioner for Patents  
BOX PCT  
Washington, D.C. 20231

Sir:

Enclosed for filing is an application for patent entitled "A Vibratory System For A Sorting Flow Cytometer" including the following documents:

1. a First Preliminary Amendment;
2. a Declaration for Patent Application of George C. Malachowski, Matthias J.G. Ottenberg and Douglas H. Ferguson;
3. a Declaration for Patent Application of Kristopher S. Buchanan and Lisa Herickhoff;
4. a Declaration for Patent Application of George Seidel;
5. a Power of Attorney of Cytomation, Inc., XY, Inc. and Colorado State University through its agent Colorado State University Research Foundation;

6. a Verified Statement Establishing Small Entity Status (Small Business) from Cytomation, Inc.;
7. a Verified Statement Establishing Small Entity Status (Small Business) from XY, Inc.;
8. a Verified Statement Establishing Small Entity Status 37 CFR 1.9(e) -- University or Other Institution of Higher Learning;
9. a Verified Statement Establishing Small Entity Status (University Employee);
10. a Assignment of Patent Rights of George C. Malachowski and Matthias J.G. Ottenberg along with a recordation cover sheet;
11. a Assignment of Patent Rights of Kristopher S. Buchanan, Lisa Herickhoff along with a recordation cover sheet;
12. a Assignment of Patent Rights of George Seidel along with a recordation cover sheet;
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15. a copy of the International PCT application;
16. Information Disclosure Citation with some copies of the cited references;
17. Cashier's check payable to the Commissioner of Patents and Trademarks in the amount of \$ 2812.00;
18. this Letter of Transmittal; and
19. Express Mail Certificates for each document.

**Please address all future correspondence to: Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, CO 80521.**

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I have this 8<sup>th</sup> day of August, 2000, either myself personally or through my direction of staff at this office, deposited all of the items in the above letter of transmittal with the United States Postal Service as Express Mail, postage prepaid, in an envelope addressed to: The Assistant Commissioner for Patents, Box Patent Application, Washington, D.C. 20231.

Dated this 8<sup>th</sup> day of August, 2000.

Respectfully Submitted,

SANTANGELO LAW OFFICES, P.C.

By:

  
Craig R. Miles

ATTORNEY FOR APPLICANT

PTO No. 45,954

125 South Howes, Third Floor

Fort Collins, Colorado 80521

(970) 224-3100

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In Re the Application of: Kristopher S. Buchanan, Lisa Herickhoff, George Seidel, George  
C. Malachowski, Matthias J.G. Ottenberg, Douglas H. Ferguson

Serial Number: (original US) 60/075,612 (new) \_\_\_\_\_  
(PCT) PCT/US99/03638

Filed: (original US) 20 February 1998 (new) \_\_\_\_\_  
(PCT) 19 February 1999

For: A Vibratory System For A Sorting Flow Cytometer

Group Art Unit:

Examiner:

Assignee:

**CERTIFICATE OF EXPRESS MAILING**

I, Shannon Nation-Kammerer, hereby certify to the truth of the following items:

1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.

2. I have this day deposited the attached Verified Statement Establishing Small Entity Status 37 CFR 1.9(e) -- University or Other Institution of Higher Learning with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

Dated this 18 day of August, 2000.

Shannon N. Nation-Kammerer

09/622621

533 Rec'd PCT/PTO 18 AUG 2000

Express Mail No: EL627894581US

Attorney Docket: XY-Sonic-USNP

IN THE UNITED STATES PATENT AND  
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1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.

2. I have this day deposited the attached firm Letter of Transmittal and a cashier's check in the amount of \$ 2,812.00 with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

Dated this 18 day of August, 2000.

Shannon Nation-Kammerer

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1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.

2. I have this day deposited the attached Preliminary Amendment with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

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Shannon N. Nation-Kammerer

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1. I am an employee of Santangelo Law Offices, P.C., 125 South Howes, Third Floor, Fort Collins, Colorado 80521.

2. I have this day deposited the attached Verified Statement Establishing Small Entity Status (Small Business) from XY, Inc. with the United States Postal Service as "Express Mail" for mailing to the Assistant Commissioner of Patents, Box PCT, Washington, D.C. 20231.

Dated this 18 day of August, 2000.

Shannon M. Nation-Kammerer

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Dated this 18 day of August, 2000.

Shannon N. Nation-Kammerer